

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RONALD A. KATZ TECHNOLOGY  
LICENSING, L.P.,

Plaintiff,

V.

C.A. No. 06-547-GMS

AMERICAN INTERNATIONAL GROUP,  
INC., et al.,

Defendants.

**NOTICE OF FILING**

PLEASE TAKE NOTICE that the documents attached as Exhibit A were filed before the Judicial Panel on Multidistrict Litigation on November 6, 2006. The attached documents are relevant to the following civil actions pending in the District of Delaware before Judge Sleet: 1:06-cv-543; 1:06-cv-544; 1:06-cv-545; 1:06-cv-546; 1:06-cv-547.

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Dated: November 7, 2006

# **EXHIBIT A**

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE:	)	
	)	
KATZ INTERACTIVE CALL PROCESSING	)	MDL - 1816
PATENT LITIGATION	)	
	)	
	)	

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**AQUILA, INC.'S RESPONSE TO MOTION FOR  
TRANSFER AND CONSOLIDATION OF KATZ TECHNOLOGY  
LICENSING PATENT LITIGATION PURSUANT TO 28 U.S.C. § 1407**

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Attorney for Defendant  
AQUILA, INC.

Aquila, Inc. (“Aquila”), a named defendant in Civil Action 06-547 before the United States District Court for the District of Delaware, hereby opposes the Motion for Transfer and Consolidation of Katz Technology Licensing Patent Litigation (“Motion”) filed by Target Corporation, Target Bank, and Target National Bank (collectively, “Target”). Aquila joins in Wilmington Trust Company and Wilmington Brokerage Services Company’s Response In Opposition to Motion for Transfer and Consolidation of Katz Technology Licensing Patent Litigation Pursuant to 28 U.S.C. § 1407. In response to each of Target’s averments set forth in its Motion, Aquila further states as follows:

1. Aquila admits that the Motion seeks to transfer and consolidate twenty-five (25) patent infringement actions and that twenty-three (23) of those actions were filed within two months of the date Target filed its Motion.

2. Upon information and belief, Aquila admits that Ronald A. Katz Technology Licensing, LP (“Katz”) is a California limited partnership having its principle place of business in Los Angeles, California. Aquila admits that Ronald A. Katz claims to be the founder of Katz and purports to be the sole named inventor of each of the patents asserted in each of the actions.

3. Aquila admits that Katz claims to have been issued more than fifty (50) United States patents related to interactive call processing. Aquila admits that each of the Katz cases relates to a portion of twenty-seven (27) different patents relating, broadly, to interactive call processing. Aquila denies that the same patents are at issue in each of the various pending lawsuits.

4. Aquila admits that in each of the actions, Katz asserts that the defendants infringe upon some portion of twenty-seven (27) different patents allegedly belonging to Katz relating, broadly, to interactive call processing. Aquila denies that the same patents and/or the same claims are asserted in each of the various Katz actions.

5. Aquila admits that at least two courts have experience with some of Katz's interactive call processing patents. Aquila admits that Judge Lowell A. Reed issued a claim construction order in the *AT&T* case construing claim terms from five of Katz's patents and states that Judge Reed's Order is a document that speaks for itself.

6. Aquila admits that Judge R. Gary Klausner has experience with fourteen (14) of Katz's patents and presided over the *Verizon* case for nearly three years. Aquila is without information or knowledge sufficient to form a belief as to how "closely-related" the *Verizon* case is to each of the pending actions and, therefore, denies that Judge Klausner's experience involves a "closely-related dispute" to each of the pending actions.

7. Aquila admits that Judge Klausner construed certain terms in a June 23, 2003 claim construction order and that some of those claim terms do not overlap terms of the patents previously addressed by Judge Reed. In further response, Aquila states that Judge Klausner's June 23, 2003 Order is a document that speaks for itself, and that no Judge has addressed all claim terms implicated in each case, and many of the terms at issue in the separate cases are not at issue in all cases.

8. Aquila admits that Judge Klausner issued an Order in the *Verizon* case in December 2003. Aquila states that Judge Klausner's Order is a document that speaks for itself.

9. Aquila admits that Katz filed suit in July 2005 in the United States District Court for the Eastern District of Texas asserting twenty-two (22) of the interactive call processing patents against multiple defendants (the *Citibank* case). Aquila admits that Judge David J. Folsom entered an order severing claims involving six of the asserted patents into a new case (the *Discover* case), which Judge Folsom stayed pending resolution of the *Citibank* case. Aquila further states that the Complaints filed and any Order by Judge Folsom are documents that speak for themselves.

10. Aquila admits that in August 2006 Katz filed five more actions in the United States District Court for the Eastern District of Texas, and two of these were subsequently split into fifteen (15) separate actions. Aquila further admits that twenty (20) separate actions are pending in the Eastern District of Texas. Aquila further states that the Complaints filed and any Order by the Court are documents that speak for themselves.

11. Aquila admits that in September 2006 Katz filed five actions in the United States District Court for the District of Delaware. Aquila further states that the Complaints filed are documents that speak for themselves.

12. Aquila admits that all of the above-mentioned actions were filed in federal court.

13. Aquila admits that each of the actions alleges infringement of various patents allegedly belonging to Katz relating to interactive call processing. Aquila admits that some of the patents asserted in the various actions overlap but denies that the same patents are asserted in each individual action. Aquila further states that Exhibits B and C to Target's Motion are documents that speak for themselves.

14. Aquila admits that some of the defenses asserted by the various defendants may overlap but denies that there will be a complete overlap or that the overlapping defenses will be asserted in an identical manner in the separate actions.

15. Aquila admits that, at the time Target filed its Motion, no answers had been filed in the twenty-one (21) most recently filed actions. Aquila further admits that, upon information and belief, the *Discover* case has been stayed pending resolution of the *Citibank* case. At the time of filing this response answers have been filed by nearly every defendant in the individual actions.

16. Aquila admits that, upon information and belief, summary judgment motions must be filed by February 2007 and trial will not commence before May 2007 in the *Citibank* case.

17. Upon information and belief, Aquila admits that no substantive orders have been issued in the *Citibank* and *Discover* cases. Aquila denies, however, that the *Citibank* and *Discover* cases are in the same or similar procedural stage as the other actions or that these cases, the *Verizon* case, and the remaining newly-filed actions are sufficiently similar that a comparison of these cases, as it relates to their procedural status, is informative to the issue of potential pre-trial consolidation.

18. Upon information and belief, Aquila admits that Target and American Airlines filed motions in the *Citibank* case requesting consolidation with the *American Electric* case and the *American Airlines* case, respectively, for claim construction purposes and that both motions were denied.

19. Aquila admits that Judge Klausner has experience with Katz's patents in the *Verizon* case. Aquila denies that Judge Klausner is the only Judge having experience with Katz's interactive call processing patents. Aquila further denies that Judge Klausner's experience with certain of the Katz patents renders him the "most experienced" Judge with all of the Katz patents, including those at issue in the case pending against Aquila.

20. Aquila admits the existence of certain overlapping questions of fact in the various actions but denies that these overlapping issues will outweigh individual issues given that the various patents asserted in each action are not identical and given the potential for industry-specific claims and defenses that could be asserted in the various actions, which already have been organized by industry type.

21. Aquila admits that there may exist common issues related to damages and royalties for each individual patent but denies that these common issues predominate given the differences in the various patents asserted in each individual action.

22. Aquila denies that transfer and consolidation is necessary for any reason.



23. Aquila denies that transfer and consolidation will minimize costs and inconvenience and denies that transfer and consolidation will promote the just and efficient conduct of the litigation.

WHEREFORE, Aquila respectfully request that Target's Motion for Transfer and Consolidation be denied in favor of allowing the individual actions to proceed as originally organized.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was served via U.S. Mail, postage prepaid, this 6<sup>th</sup> day of November, 2006, upon each attorney or party listed on the attached Panel Attorney Service List.

/s/ Juliet A. Cox  
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I further certify that I caused a copy of the foregoing document to be served by e-mail and hand delivery on November 7, 2006 on the above-listed counsel of record.

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